

South Australia

# Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013

under the *Fisheries Management Act 2007*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013*.

### 2—Commencement

These regulations will come into operation 4 months after the day on which they are made (see *Subordinate Legislation Act 1978* section 10AA).

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Fisheries Management Act 2007*;

*Corporations Act* means the *Corporations Act 2001* of the Commonwealth;

*current company extract* means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;

- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

**fishery** means the Miscellaneous Developmental Fishery constituted by these regulations;

**prescribed fishery regulations** means any of the following regulations:

- (a) the *Fisheries Management (Abalone Fisheries) Regulations 2006*;
- (b) the *Fisheries Management (Blue Crab Fishery) Regulations 1998*;
- (c) the *Fisheries Management (Charter Boat Fishery) Regulations 2005*;
- (d) the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;
- (e) the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;
- (f) the *Fisheries Management (Prawn Fisheries) Regulations 2006*;
- (g) the *Fisheries Management (River Fishery) Regulations 2006*;
- (h) the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006*;

**waters of the State** means all the waters to which the Act applies.

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) In these regulations, a reference to the **taking of aquatic resources** includes a reference to an act preparatory to, or involved in, the taking of the aquatic resources.

#### **4—Constitution of fishery**

- (1) The Miscellaneous Developmental Fishery is constituted.
- (2) The Miscellaneous Developmental Fishery consists of the taking of aquatic resources in the waters of the State but does not include a fishing activity of a class constituted as a fishery by prescribed fishery regulations.
- (3) The Miscellaneous Developmental Fishery is declared to be a developmental fishery for the purposes of the Act.

#### **5—Issue of permits**

- (1) The Minister may issue permits in respect of the fishery.
- (2) Permits in respect of the fishery will be of the following classes:
  - (a) exploratory permits;
  - (b) developmental permits.
- (3) The Minister may only grant an exploratory permit in respect of the fishery if satisfied that the applicant is a natural person of at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery.

- (4) The Minister may only grant a developmental permit in respect of the fishery if satisfied as to the following:
- (a) if the applicant is a natural person—that the person is at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery;
  - (b) if the applicant is a company—that each director of the company is a fit and proper person to be a director of a company that holds a permit in respect of the fishery.

#### **6—Power of Minister to limit fishing activities**

The Minister may impose conditions on a permit in respect of the fishery limiting the class of fishing activities that may be engaged in under the permit.

#### **7—Registration**

An application by the holder of a permit in respect of the fishery—

- (a) to register a boat or device for use under the permit; or
  - (b) to register a person as a master of a boat that may be used under the permit,
- must be accompanied by the documents specified in the application form.

#### **8—Revocation of registration**

- (1) The Minister may, on application by the holder of a permit in respect of the fishery, revoke the registration of—
- (a) a boat or device used under the permit; or
  - (b) a person as a master of a boat that may be used under the permit.
- (2) An application for revocation of registration must—
- (a) be made in a manner and form approved by the Minister; and
  - (b) be signed by the applicant and be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the documents specified in the application form.

#### **9—Transfer of permits**

- (1) Exploratory permits are not transferable.
- (2) Developmental permits are transferable.
- (3) An application for consent to the transfer of a developmental permit must be accompanied by—
- (a) the permit to be transferred; and
  - (b) a form of return as required by regulation 10 completed by the holder of the permit up to the date of application; and
  - (c) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application.

- (4) The Minister may only consent to the transfer of a developmental permit if satisfied as to the following:
- (a) that any fees or other amounts payable in relation to the permit under the Act have been paid in full;
  - (b) that the permit to be transferred has not been suspended;
  - (c) that no proceedings alleging an offence against the Act or the repealed Act are pending or likely to be commenced in the State against the holder of the permit;
  - (d) if the transferee is a natural person—that the transferee is at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery;
  - (e) if the transferee is a company—that each director of the company is a fit and proper person to be a director of a company that holds a permit in respect of the fishery.

#### **10—Periodic returns**

The holder of a permit in respect of the fishery must, on a date or dates determined by the Minister in each year, provide the Minister with a periodic return containing such information as the Minister requires in the manner and form determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

#### **11—Copies of periodic returns to be made and kept**

The holder of a permit in respect of the fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent or delivered to the Minister; and
- (b) retain the copy for the period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2013	193	<i>Gazette 1.8.2013 p3331</i>	1.12.2013: r 2